

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

EARNEST HEIB, and CHRISTINE HEIB,
husband and wife,

Plaintiffs,

v.

ARCHES FINANCIAL, a Utah Limited
Liability Company, and PAUL LAW
OFFICES,

Defendants.

No. CV-08-0155-FVS

ORDER DENYING MOTION FOR
ATTORNEY'S FEES AND COSTS
WITHOUT PREJUDICE

THIS MATTER comes before the Court on Plaintiffs' motion for attorney's fees and costs following the Court's order of default judgment in this case. Plaintiffs are represented by Michael D. Kinkley.

BACKGROUND

Plaintiffs filed their complaint on May 14, 2008. (Ct. Rec. 1). Plaintiffs alleged that Defendants violated their rights by attempting to collect an alleged debt by repeatedly and continuously calling the Plaintiffs at their home late at night with intent to harass.

Defendants were served but did not answer or otherwise appear in this matter. A clerk's order of default was entered on July 8, 2008. (Ct. Rec. 5). Plaintiff filed a motion for default judgment on August 5, 2008 (Ct. Rec. 9) and set a hearing for oral argument in order to present their claim for damages to the Court. Following the

1 hearing, findings of fact and conclusions of law (Ct. Rec. 22) and
2 judgment in favor of Plaintiffs (Ct. Rec. 23) was entered in this
3 matter, and the case was closed. Plaintiffs were awarded damages in
4 the total amount of \$157,900.00. Plaintiffs were additionally
5 awarded costs and attorney's fees as allowed by federal and/or state
6 law.

7 **DISCUSSION**

8 While Plaintiffs have moved for attorney's fees and costs
9 pursuant to 15 U.S.C. § 1692k(a)(3) and R.C.W. 19.86 *et seq.*, and
10 indicated that Mr. Kinkley's usual hourly rate is \$300.00, there has
11 been no documentation presented nor a request made for a specific
12 amount of hours reasonably spent on this case. (Ct. Rec. 24-26).
13 Mr. Kinkley's declaration "Regarding Hours Spent" indicates that a
14 true and correct copy of his stated time, charges and costs in this
15 matter is attached to the declaration. (Ct. Rec. 26 ¶¶ 2 & 6).
16 However, no such attachment was provided. Counsel has failed to make
17 a specific request for fees and costs and has failed to document or
18 otherwise justify hours reasonably spent on this litigation.

19 Accordingly, **IT IS HEREBY ORDERED** that Plaintiffs' motion for
20 attorney's fees and costs (Ct. Rec. 24) is **DENIED without prejudice**.

21 **IT IS SO ORDERED.** The District Court Executive is hereby
22 directed to enter this order and furnish copies to counsel.

23 **DATED** this 31st day of October, 2008.

24 S/Fred Van Sickle
25 Fred Van Sickle
26 Senior United States District Judge